
GLG

Global Legal Group



The International Comparative Legal Guide to: Litigation & Dispute Resolution 2010

A practical cross-border insight
into litigation & dispute resolution

Published by Global Legal Group, in association with
CDR News, with contributions from:

Aivar Pilv Law Office
Anderson Mori & Tomotsune
Arias & Muñoz
Anastasios Antoniou LLC
BINDER GRÖSSWANG
Bizlink Lawyers & Consultants
Borislav Boyanov & Co.
Bredin Prat
Čechová & Partners
CMS Cameron McKenna LLC
Coronel & Pérez
Dechert LLP
Dittmar & Indrenius
DLA Piper UK LLP
Gleiss Lutz
Gómez-Acebo & Pombo Abogados, S.L.P.
Gross, Kleinhendler, Hodak, Halevy, Greenberg & Co.
Ivor Fitzpatrick & Company
Janežič & Jarkovič
Kļaviņš & Slaidiņš LAWIN
Kyriakides Georgopoulos & Daniolos Issaias Law Firm
Lee and Li, Attorneys-at-Law
Lloreda Camacho & Co.
Lovells
M. & M. Bomchil
Marque Lawyers
Mifsud & Mifsud Advocates
MOLITOR Avocats à la Cour
Pachiu & Associates, Attorneys at Law
Pinheiro Neto Advogados
Portilla, Ruy-Díaz y Aguilar, S.C.
Rodyk & Davidson LLP
Schellenberg Wittmer
SJ Berwin LLP
Sutkienė, Pilkauskas & Partners
Szecskay Attorneys at Law
Villaraza Cruz Marcelo & Angangco
Vukmir & Associates
Yoon & Yang LLC
Yukov, Khrenov & Partners

CDR
Commercial Dispute Resolution

Hungary



Dr. András Szecskay



Dr. Miklós Boronkay

Szecskay Attorneys at Law

I. LITIGATION

1 Preliminaries

1.1 What type of legal system has Hungary got? Are there any rules that govern civil procedure in Hungary?

The Hungarian legal system, similarly to that of Germany and Austria, is based on the civil law tradition. Civil law procedure is governed by Act III of 1952 on Civil Procedure (the “Civil Procedure Code”). The Hungarian courts are legally not bound by previous judgments; however the Supreme Court and the high courts of appeal (among others) publish their judgments as guidance for court practice. As one of the Supreme Court’s main tasks is to create unified legal practice, it can therefore render harmonising decisions that are binding upon the courts. These Supreme Court decisions can also cover civil procedure issues.

1.2 How is the civil court system in Hungary structured? What are the various levels of appeal and are there any specialist courts?

Act LXVI of 1997 on the Organizational and Administrative Structure of courts regulates the current court system. In 2003 the civil court system changed due to the growing number of appellate procedures. In 2003 five high courts of appeal were set up to take over competence for appellate procedures from the Supreme Court. Due to these changes, the current civil court system has four levels. The local courts are the first instance courts in minor cases. In certain types of cases expressly regulated by the Civil Procedure Code, county courts proceed in the first instance. County courts also handle appeals filed against the decisions of the local courts. High courts of appeal handle appeals filed against the decisions of the county courts. The Supreme Court proceeds in judicial reviews filed against the final second instance decisions of the county courts and high courts of appeal.

Employment courts are special courts. There are employment tribunals in Budapest and in the counties.

1.3 What are the main stages in civil proceedings in Hungary? What is their underlying timeframe?

Civil proceedings start when a plaintiff submits its statement of claim to the competent court. The court then examines within 30 days whether the claim fulfils all the requirements set forth in the Civil Procedure Code. If not, the court either requests the plaintiff to resubmit its claim with the relevant corrections or if the claim does

not fulfil certain special necessary requirements (e.g. the court’s jurisdiction is excluded, the power of attorney of the legal representative is not attached etc.) the court shall reject the claim without summoning the parties. Once the plaintiff’s statement of claim is correctly submitted, the court delivers the claim to the defendant and summons the parties to a hearing. The defendant may submit a counter claim or a statement of defence to the court or may present its arguments at the hearing. Once it is clear which facts have to be proved, the court informs the parties on this, and the evidentiary phase commences. The average duration of commercial civil proceedings before the courts of first instance is between one and two years, while appeal proceedings can take even longer.

1.4 What is Hungary’s local judiciary’s approach to exclusive jurisdiction clauses?

As a basic rule, the parties may stipulate the exclusive jurisdiction of the desired court. The parties may not stipulate an exclusive jurisdiction clause if an Act (mainly the Civil Procedure Code) sets forth the exclusive jurisdiction of a court. For example, the Civil Procedure Code stipulates exclusive jurisdiction in IP law proceedings. The provisions of the Civil Procedure Code on exclusive jurisdiction have been recently modified. According to the new rules, the parties may not stipulate the exclusive jurisdiction of the following local and county courts: the Pest Central District Court; the Municipal Court of Budapest; and the Pest county court. This regulation is currently being contested before the Constitutional Court.

1.5 What are the costs of civil court proceedings in Hungary? Who bears these costs?

In principle the losing party shall bear the costs of the proceeding. If a party only partially succeeds, the fees and expenses are divided proportionally between the parties. The court assesses the costs of the proceeding. The costs shall cover all the parties’ expenses, provided that the parties acted in good faith. There are several factors that can influence the court’s decision on the costs of the proceeding, such as the exemption of the party from procedural costs or an existing security for costs.

1.6 Are there any particular rules about funding litigation in Hungary? Are contingency fee/conditional fee arrangements permissible? What are the rules pertaining to security for costs?

The Hungarian civil law system allows attorneys and their clients to negotiate legal fees, although if these are extremely high the

agreement can be challenged on the basis that it is contrary to *bonos mores*. The plaintiff shall pay a procedural duty when submitting its statement of claim, thus it is the plaintiff who advances the court's costs (with certain exceptions).

Upon the request of the defendant, the court may order a foreign plaintiff to pay security for costs, unless (i) any multilateral treaty provides otherwise, (ii) the plaintiff is exempted from procedural costs, or (iii) the counterclaim of the plaintiff acknowledged by the defendant covers the possible procedural costs. The issue of security for costs is governed by Article 17 of the Hague Convention of 1954 on Civil Procedure. In accordance with the established case law of the Hungarian Supreme court, the above article applies to natural persons only, consequently any legal entity may be ordered to pay security for costs irrespective of the provisions of the Hague Convention.

2 Before Commencing Proceedings

2.1 Is there any particular formality with which you must comply before you initiate proceedings?

As of January 1, 2009, the Hungarian legislator introduced the compulsory conciliation for legal disputes between economic organisations having legal personality. Compulsory conciliation may take place either by way of written correspondence between the parties, or a joint declaration of the parties on their legal dispute. The Civil Procedure Code regulates the content of the documents in detail. The Plaintiff must attach the compulsory conciliation documents to its statement of claim. The compulsory conciliation is a rather formal requirement imposed by procedural law: the plaintiff remains free to alter its legal or factual standpoint set out in the pre-action letter or any later correspondence or to provide additional evidence.

2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

Under Hungarian law, the limitation period is a matter of substantive law, rather than of procedural law.

The general limitation period is 5 years as of the maturity of the claim. However, no limitation applies for property claims and claims arising from the infringement of personal rights. For certain type of claims substantive law sets forth a different (usually shorter) limitation period. Under certain circumstances, the limitation period may be interrupted e.g. if the obligee sends a written notice to the obligor or the obligor acknowledges its debt.

In other cases, substantial law prescribes a deadline for bringing the claim, where lack of compliance will result in forfeiture.

3 Commencing Proceedings

3.1 How are civil proceedings commenced (issued and served) in Hungary? What various means of service are there? What is the deemed date of service? How is service effected outside Hungary? Is there a preferred method of service of foreign proceedings in Hungary?

Civil proceedings commence once a plaintiff submits its statement of claim to the competent court. The court must then examine the claim within 30 days from receipt. If the claim complies with the law, the court schedules the first hearing.

The Civil Procedure Code contains specific rules on the service of documents. The court serves the documents by ordinary post (letters with confirmation of receipt). Under certain circumstances, a document shall be considered as delivered even if the actual delivery was unsuccessful (e.g. the addressee refused to accept the document). For documents originating from or to be served in another EU Member State, service to a party in Hungary is effected on the basis of Regulation (EC) No. 1348/2000. For documents originating from or to be served in a country outside the EU, the rules of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters 1965 apply.

3.2 Are any pre-action interim remedies available in Hungary? How do you apply for them? What are the main criteria for obtaining these?

In special circumstances, the courts have the power to grant interim measures. Interim measures shall be necessary for (i) averting of imminent danger, (ii) retaining the *status quo* subject to the lawsuit, or (iii) protecting a right of the requesting party that requires special consideration. Moreover, such measures must not cause disproportionate disadvantage to the other party. Finally, it is the requesting party that must substantiate the facts underlying its request. Under certain limited circumstances, e.g. in case of extreme urgency, the court may grant interim measures *ex parte*.

3.3 What are the main elements of the claimant's pleadings?

The claimant's pleadings must always specify:

- the court to which proceedings are being brought;
- the name, permanent address and description of the parties and the representatives of the parties;
- the right that is required to be enforced, presenting the facts and the evidence serving as a basis;
- the data from which the competence of the court may be established; and
- the plaintiff's petition.

3.4 Can the pleadings be amended? If so, are there any restrictions?

According to the Civil Procedure Code, a Plaintiff is entitled to modify his petition until the closing of the last first instance hearing preceding the first instance judgment, provided that its modified claim arises from, or relates to, the legal relation underlying its original petition. As a general rule, the plaintiff cannot amend its petition in the course of the second instance proceedings.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring counterclaims/claim or defence of set-off?

The statement of defence must specify which of the plaintiff's statements the defendant refutes. The defendant may also submit its evidence. The defendant may submit a counterclaim before the end of the last hearing of the first instance proceeding. A counterclaim can only be submitted if the claim and the counterclaim arise from or are connected to the same legal relationship.

4.2 What is the time-limit within which the statement of defence has to be served?

The defendant must submit its statement of defence at the first hearing at the latest. For the legal consequences of not submitting the statement of defence please refer to question 4.4.

4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on liability by bringing an action against a third party?

Under certain circumstances the defendant as an interpleader has the right to give a notice to a third party until the closing of the last hearing preceding the first instance judgment. However the third party is not obliged to accept the intervention offer.

4.4 What happens if the defendant does not defend the claim?

If the defendant fails to appear at the first hearing despite being duly summoned and without justifying its absence and without submitting a statement of defence, the court issues a “default judgment” according to the request of the plaintiff. In the lack of conditions of issuing a default judgment or in the absence of plaintiff’s request the hearing shall be adjourned.

4.5 Can the defendant dispute the court’s jurisdiction?

The defendant can dispute the court’s jurisdiction. What is more, the court examines its jurisdiction and competence *ex officio*. However, even if the court does not have jurisdiction but its jurisdiction is not excluded either, its jurisdiction shall be established by the fact that the defendant does not dispute the jurisdiction of the court and makes a declaration on the merits of the case.

5 Joinder & Consolidation

5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

The Civil Procedure Code allows intervention into proceedings on the side of either the defendant or the claimant if the joinder has a legal interest in one of them prevailing.

The Civil Procedure Code furthermore allows for interpleading of a third party if the interpleading party will face or have claims from or against the interpleaded party. If the interpleaded party accepts the interpleading, it will then qualify as intervener.

5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

The court may consolidate different proceedings pending before the same court if their subjects are connected. Proceedings between different local courts may only be consolidated if the parties are business organisations. In such proceedings the county court may even consolidate proceedings belonging to several local courts under its territorial competence.

5.3 Do you have split trials/bifurcation of proceedings?

Different claims or parts of claims enforced in one proceeding may, at the discretion of the court, be split at any time during the proceeding. This does not however result in more trials, it is rather a division into several hearings all adjudged in different final decisions (partial judgment, order on the termination of the proceeding, etc.). Splitting a trial will therefore not result in a transfer to another court that would be competent in light of a lower value or different nature of the individual claims. If the question as to the legal basis and of the quantum of a claim may be separated, the court may render an interim judgment on the legal basis only.

6 Duties & Powers of the Courts

6.1 Is there any particular case allocation system before the civil courts in Hungary? How are cases allocated?

Actions have to be initiated at a court that has both subject-matter and territorial competence. Local courts have general subject-matter competence, but actions involving a greater value or special issues (e.g. IP rights, some types of corporate litigations, securitised claims) are initiated at the county courts. County courts have special divisions for civil and commercial proceedings. The defendant’s seat determines which court has territorial competence; however there are certain other bases for territorial competence, such as the place of concluding or performing the contract or the place where the tort was committed. The parties may stipulate the exclusive territorial competence of a chosen court. If the statement of claims is filed with a court lacking competence, the court transfers the case to the competent court on its own motion.

6.2 Do the courts in Hungary have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

The court examines the statement of claims within 30 days after submission and it can provide for certain measures to prepare the hearing. The court conducts the hearing by determining the order of the acts in the litigation.

The court must ensure that:

- only the circumstances and issues connected to the case are discussed at the hearing;
- the participants exercise their procedural rights *bona fide* and comply with their procedural duties;
- the order and dignity of the hearing is respected; and
- the case is decided fairly and in a reasonable time. (The parties may file an objection if the deadlines are not kept.)

Unless the law provides otherwise, the courts are bound to the submissions and requests submitted by the parties. It is for the parties to bring evidence but the court may refuse a motion for evidence.

The parties can request an interim measure and also, under certain circumstances, preliminary evidence taking. The costs of an interim measure are to be borne by the parties in the proportion of winning/losing the case, although the costs of unnecessary measures are to be paid by the applicant.

6.3 What sanctions are the courts in Hungary empowered to impose on a party that disobeys the court’s orders or directions?

Failure to make a statement or attend a hearing may result in a default

judgment. The party making unnecessary applications or missing a deadline pays the costs caused by his action/omission. In case of misbehaviour at the hearing, the party may be rebuked, fined (up to HUF 500,000 i.e. EUR 1,800) and lastly, expelled from the courtroom.

6.4 Do the courts in Hungary have the power to strike out part of a statement of case? If so, in what circumstances?

If the plaintiff's statement of claim does not fulfil certain requirements imposed by the Code of Civil Procedure Code, the Court may reject it. If however the statement has been filed in compliance with the rules, it must be examined by the court.

6.5 Can the civil courts in Hungary enter summary judgment?

Hungarian courts are not entitled to enter summary judgments.

6.6 Do the courts in Hungary have any powers to discontinue or stay the proceedings? If so, in what circumstances?

Litigation can be terminated in several cases, e.g. if the statement of claims should have been rejected, if the claimant is absent from the first hearing, or a party fails to be represented by a legal counsel where this is mandatory.

Proceedings may be suspended if the result thereof depends on the outcome of another criminal, civil or administrative proceeding.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in Hungary? Are there any classes of documents that do not require disclosure?

A discovery procedure of the type available in litigation before UK courts is not known in Hungary. However, the court can order a party, at the request of the other party, to disclose certain documents. The precondition for this order is that there must be an obligation for the disclosure under the rules of (substantive) civil law. This is the case if for example a document was made for the benefit of the proving party or if it certifies a legal relationship pertaining to the proving party or relates to the negotiations on such legal relationship.

7.2 What are the rules on privilege in civil proceedings in Hungary?

The concept of privilege as in the United Kingdom does not exist under Hungarian law. Attorneys are, however, bound by the duty of confidentiality. This means that it is only the attorney who can invoke the rules of privilege, not the client. Therefore, correspondence received from an attorney that is in the possession of the client can be disclosed. As in-house lawyers are employees of their firm, they do not enjoy special treatment in comparison to other employees of the relevant firm.

7.3 What are the rules in Hungary with respect to disclosure by third parties?

There is no general rule for disclosure by third parties. If however a third party is summoned by the court to testify as a witness, it may be obliged to produce any document in its possession. The third party witness may refuse to testify and to produce documents if by doing so, it would infringe upon its duty to keep business secrecy.

7.4 What is the court's role in disclosure in civil proceedings in Hungary?

It is the court that orders, upon the request of a party, the production of documents and/or the appearance of a witness. It is also the court's task to evaluate the probative force of the documents produced. Finally, if a party is unable or reluctant to produce a document that it is required to produce, the court will assess the failure to produce the relevant document (e.g. by way of an adverse inference) and will decide the case.

7.5 Are there any restrictions on the use of documents obtained by disclosure in Hungary?

Currently, there is no such restriction. For the admissibility of evidence that was illegally obtained, please see below at question 8.2.

8 Evidence

8.1 What are the basic rules of evidence in Hungary?

Unless the law provides otherwise, the burden of proof lies with the party in the interest of which it is that the court accepts the alleged fact as true. As a general rule, the court does not carry out any evidence taking *ex officio*. It is therefore up to the parties to present their evidence, although it is the court which orders the taking of evidence.

If the decision in the legal dispute requires special expertise that the court lacks, the court shall appoint a judicial expert and order an expert opinion. It is also possible for the parties to produce expert opinions, however the probative force of these is considered to be rather limited. It must be noted that once the opinion of the judicial expert is obtained, the court is legally not bound to follow it.

8.2 What types of evidence are admissible, which ones are not? What about expert evidence in particular?

Generally speaking, all types of evidence are admissible, e.g. witness testimony, expert opinion, documents, etc. Under certain circumstances, witnesses can refuse to give testimony. If the court failed to warn them of their right to refusal or unlawfully dismissed their refusal, the witness testimony may not be used as evidence. Finally, it must be noted that there are decisions where the courts refused to admit documents and other evidence that were illegally obtained, e.g. by way of infringing upon the other party's personality rights (e.g. illegal photos or voice recordings). Nevertheless, the majority of the published decision allows the use of these pieces of evidence.

8.3 Are there any particular rules regarding the calling of witnesses of fact? The making of witness statements or depositions?

The hearing of witnesses is requested by the parties, but it is the court that orders the witnesses to appear. What is more, it is the court that questions the witnesses. The parties are also entitled to ask questions, but leading questions are not admitted and no cross-examination is allowed. Witness statements are neither required nor admitted.

8.4 What is the court's role in the parties' provision of evidence in civil proceedings in Hungary?

It is the court's obligation to inform the parties of the facts to be proved, the burden of proof and the consequences of the failure to discharge this burden. If the parties fail to provide evidence or file a motion for evidence taking despite the court's warning, the court may render its decision without waiting for the evidence, if the evidence taking would prolong the proceeding. Finally it is the court that orders evidence taking, e.g. summons the witness, appoints the expert.

9 Judgments & Orders

9.1 What different types of judgments and orders are the civil courts in Hungary empowered to issue and in what circumstances?

The court issues a judgment on the merits of the case and in any other matter, including the order of dismissal of the proceeding, the court issues orders.

The court may issue judgments for condemnation, declaration or can submit a constitutive claim requesting the court to establish, terminate or modify a legal right or status with its resolution.

9.2 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

Damages are strictly compensatory and limited to the amount of damages actually suffered. Punitive damages are not available.

Interest shall be paid on monetary claims. As a general rule the annual interest rate shall be equal to the central bank base rate.

All expenses incurred in connection with the conduct of the lawsuit are regarded as litigation costs. As a general rule, the losing party bears the costs.

9.3 How can a domestic/foreign judgment be enforced?

The enforcement of domestic judgments is implemented by judicial enforcement proceedings. In accordance with Act LIII of 1994 on Judicial Enforcement, the court of first instance issues a certificate of enforcement based on a court resolution delivered in a civil matter or a settlement that has been approved by the court. The certificate of enforcement is an enforceable document.

The enforcement of EU judgments is mainly governed by Council Regulation (EC) No. 44/2001. Pursuant to the regulation, a judgment delivered in a Member State shall be recognised in another member state without any special procedure.

The enforcement of non-EU judgments is governed mainly by Law Decree No. 13. of 1979 on Private International Law.

9.4 What are the rules of appeal against a judgment of a civil court of Hungary?

The parties and the intervenor may appeal the resolution. Additionally, any person with regard to whom the resolution contains any directions may file an appeal against those parts of the resolution that affect him.

The appeal may be lodged at the court of first instance within 15 days from the announcement of the resolution. As a general rule an appeal that was submitted within the proper deadline shall have a

dilatory effect on the resolution becoming final and enforceable.

New allegations of facts or evidence can be presented in the appeal only if the party submitting the appeal becomes aware of such facts or evidence after the resolution of first instance was issued, or if the new facts or evidence are aimed to illustrate that the resolution is violating the law. If the resolution of the court of first instance is correct on the merits, the appellate court maintains the judgment. Otherwise the court may change it partly or completely within the limits of the appeal. If certain requirements are met the court annuls the judgment with an order and orders the court of first instance to pass a new resolution.

II. DISPUTE RESOLUTION

1 Preliminaries

1.1 What methods of dispute resolution are available and frequently used in Hungary? Arbitration/Mediation/Tribunals/Ombudsman? (Please provide a brief overview of each available method.)

The parties may stipulate arbitration in writing if at least one of them is professionally engaged in business activities, the legal dispute is connected to this activity and the parties may freely dispose of their claims. The Hungarian Act on Arbitration basically enacted the 1985 UNCITRAL Model Law on Commercial Arbitration. Competence of the arbitration tribunal is exclusive. However, the parties may request interim measures from state courts during the arbitration. There is no appeal against the award of the tribunal, however the parties may request the state courts to declare it void for the violation of basic procedural rules or ordre public. Since Hungary is a member of the New York Convention, as a general rule awards can be executed as ordinary judgments.

The parties may also jointly commission a registered mediator to mediate between them. If an agreement is reached, it does not limit the parties' right to initiate litigation or arbitration (either for its enforcement or a different aim), and they cannot refer to any waivers made therein. However, the fact that a mediated agreement was reached may have cost consequences. Mediation is also available in healthcare matters concerning patients' rights.

Consumers may initiate a conciliation proceeding at the Hungarian Chamber of Commerce and Industry for an alleged violation of consumer rights by an undertaking. The conciliation committee may set up a settlement if the parties agree.

In Hungary, there are three ombudsmen that guard the following interests: citizens' rights; data protection; and the interests of future generations. Due to the nature of their proceedings, they are not considered to be methods of dispute resolution.

1.2 What are the laws or rules governing the different methods of dispute resolution?

Arbitration in Hungary is generally governed by Act LXXI of 1994 on Arbitration, which basically respects the agreement of the parties on procedural issues. Mediation is governed by Act LV of 2002 on Mediation Activity and Act CXVI of 2000 on Healthcare Mediation Activity. For consumers' conciliation, the rules are contained in Act CLV of 1997 on Consumer Protection.

1.3 Are there any areas of law in Hungary that cannot use arbitration/mediation/tribunals/Ombudsman as a means of dispute resolution?

The following matters (among others) are not arbitrable, even within the limits specified in Part II, question 1.1: family law disputes; disputes concerning legal capacity of natural persons; judicial review of administrative resolutions; and employment matters. Disputes concerning legal capacity and judicial review of administrative resolutions (among others) may not be subject to mediation.

2 Dispute Resolution Institutions

2.1 What are the major dispute resolution institutions in Hungary?

The most important institution is the Court of Arbitration attached to the Hungarian Chamber of Commerce and Industry. It has an average of 300-400 cases per year and therefore has the most cases of all permanent courts of arbitration. Other arbitration institutions are also available but due to their specialised nature the number of cases handled is considerably lower.

These institutions are:

- The Court of Arbitration of the Financial and Capital Market;
- The Permanent Court of Arbitration of Communication Matters; and
- The Energy Arbitration Court.

In addition to the above, the parties may agree on the competence of *ad hoc* arbitration tribunals, e.g. according to the rules prepared by the Budapest Bar Association.

Another increasingly important institution is the Conciliation Body attached to the Hungarian Chamber of Commerce and Industry. This institution deals only with consumer questions having usually lower value, but the rising number of cases (4,540 cases in 2008) shows the significance of the institution.

Furthermore during the course of judicial proceedings, the court may refer the parties to a mediator if a settlement between the parties seems possible. If a settlement is reached during the mediation, the court will approve the settlement giving it the same legal effect of a judgment.

2.2 Do any of the mentioned dispute resolution mechanisms provide binding and enforceable solutions?

Arbitral awards are non-appealable binding resolutions that can immediately be enforced the same way as ordinary judgments can. Furthermore the reasons for setting aside of an award are very

limited under Hungarian law. The awards of the Conciliation body may be binding and thus enforceable against the non-consumer party only if the latter decides to consent to the jurisdiction of the Conciliation Body. Otherwise, the Conciliation Body may only issue recommendations. However if the Body decides in favour of the non-consumer party the decision may not be considered binding despite the consent to jurisdiction.

3 Trends & Developments

3.1 Are there any trends in the use of the different dispute resolution methods?

The primary method of dispute resolution in Hungary is still enforcing claims before ordinary courts. As the average length of procedure before ordinary courts is rather long, arbitration proceedings are becoming increasingly popular, although only for high value transactions due to the associated high costs.

In 2008 the Hungarian Association for Mediation, together with the Ministry of Justice and Law Enforcement and the National Council of Justice, started a programme to promote mediation, examine its efficiency in previous litigations and assess its advantages for society as a whole. As a part of the programme, judges and employees of selected courts participated in mediation training and duties were established to make mediators more easily accessible for potential clients. In spite of these efforts, mediation is still rarely used.

3.2 Please provide, in no more than 300 words, a summary of any current issues or proceedings affecting the use of those dispute resolution methods in Hungary?

The Hungarian Parliament recently adopted an amendment to the Civil Procedure Code that introduced class action lawsuits to Hungarian law. The Hungarian President did not sign the amendment however, but sent it back to the Parliament. This was due to the fact that the amendment was adopted without any prior consultation with the legal profession and was in many parts incoherent with current legislation.

Effective as of 1 January 2011, the Civil Procedure Code will contain a new chapter on legal disputes between business undertakings. In such proceedings commencing after January 1 the parties are obliged to conduct preliminary negotiations and to present all documents used in the litigation before the actual litigation is initiated. Furthermore, if the complexity of the case requires, the court will also hold a preparatory meeting before the first hearing. The right to appeal will also be seriously limited, as no new evidence or facts can be presented in the appellate proceeding and as the court will only hold a hearing if any of the parties requires so.

**Dr. András Szecskay**

Szecskay Attorneys at Law
Kossuth tér 16-17
H-1055 Budapest
Hungary

Tel: +36 1 472 3000
Fax: +36 1 472 3001
Email: andras.szecskay@szecskay.com
URL: www.szecskay.com

Dr. András Szecskay is the Managing Partner of SZECSKAY ATTORNEYS AT LAW, a law firm with an international clientele and scope of activities. Dr. Szecskay received his JD, *summa cum laude*, from the Szeged University Law School in 1973 and has participated in a professional continuing education programme in Canada. He has been practicing law as a member of the Bar Association since 1975. He was a partner at the SBG&K Patent and Law Office in Budapest between 1975 and 1992, and at the international law office of the French firm of Moquet Borde & Associés between 1992 and 2004. His firm's practice encompasses all areas of commercial law. He has been an active member of the Budapest Bar Association, first as its secretary, then as a member of the Executive Board during several cycles and since March of 2002, as Vice-President responsible for International Relations. In 2000, he was presented with the Eötvös Award, in 2002, he was recognised as an "Exemplary Lawyer", and in 2008, the President of Hungary awarded Dr. Szecskay with the "Knight's Cross Order of Merit of the Republic of Hungary". Dr. Szecskay is actively involved in numerous international organisations (CCBE - Head of the Hungarian Delegation, UIA - member of the Executive Committee, IBA, LES, AIPPI, MIE, LIDC, HVCA) and he regularly lectures at domestic and international conferences. He is the author or co-author of a number of articles on Hungarian and international corporate law, competition law, arbitration and IP law. He currently provides legal counsel in M&A transactions, corporate and project finance, litigation/arbitration and IP law. Dr. Szecskay is on the Roll of Recommended Arbitrators of the Hungarian Chamber of Commerce and Industry. His articles have appeared in international publications, such as Digest of Commercial Laws of the World (L. NELSON), Worldwide Trade Secrets Law (T.F. MCLAREN), International Banking Law & Regulation (OCEANA PUBLICATIONS, INC.) and Hungarian professional periodicals. Dr. Szecskay is fluent in English. For further information, please visit www.szecskay.com.

**Dr. Miklós Boronkay**

Szecskay Attorneys at Law
Kossuth tér 16-17
H-1055 Budapest
Hungary

Tel: +36 1 472 3000
Fax: +36 1 472 3001
Email: miklos.boronkay@szecskay.com
URL: www.szecskay.com

Dr. Miklós Boronkay is a Hungarian attorney candidate. He received his JD, *cum laude*, from the Catholic University Pázmány Péter in 2007. In 2004-2005, he studied at the University of Salzburg on an Erasmus scholarship. At the National Competition for University Students in 2007, Dr. Boronkay won a second prize with his comparative thesis on tort law. In 2007, he was awarded a speaker prize at the Central and Eastern European Moot Court Competition, organised by the University of Cambridge. Moreover, in 2007, he won a second prize at the Hungarian Criminal Law Moot Court Competition with his defense speech. During his studies, he was trainee at the Law Firm Oppenheim és Társai Freshfields Bruckhaus Deringer and at the Hungarian Constitutional Court. He is a member of the Competition Law Research Centre and has written articles on the subjects of tort law. Dr. Boronkay joined the firm in September 2007 and is fluent in English and German.



Szecskay Attorneys at Law is a market-leading, independent Hungarian law firm, consistently top-ranked in all major legal rankings publications (IFLR, Chambers, Legal 500). We were founded in 1992 by Dr. András Szecskay, Managing Partner.

In addition to local counsel, we have foreign attorneys admitted to practice in France, Germany and the US. Our highly personalised and service-oriented team is able to provide efficient, tailor-made legal consultancy services in English, French, German and Hungarian.

As a full-fledged business law firm, we provide innovative solutions in all fields of corporate and commercial law, where we developed strong practice areas. Our strongest areas are corporate finance and M&A, litigation, arbitration, real estate, capital markets, competition law and employment law. We also avidly develop our energy, IP, administrative, banking and financial services, telecom, advertising and media law practices.